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HIGH COURT OF JUDICATURE, CHHATTISGARH AT BILASPUR

Writ Petition No.293 of 1999

PETITIONERS:

1. Dr. R.A. Sharma,
S/o Late Shri G.N. Sharma
Aged about 48 years,
R/o 365, Samta Colony,
Raipur (M.P.) (now C.G.)

2. Dr. Jawahar Lal Tiwari
S/o Late Shri Jhumuk Lal Tiwari,
Aged about 45 years,
R/o N-8, Daulat Estate,
Behind Ayurvedic College,
Post Office: Sunder Nagar,
Danganiya, Raipur (M.P.) (now C.G.)

3. Dr. R.K. Pradhan S/o Shri Jai Pradhan,
Aged about 41 years,
R/o Suite No.16, Teachers Hostel,
Ravi Shanker University Campus,
Raipur (M.P.) (now C.G.)

Versus

RESPONDENTS :

1. The Chancellor of University,
Madhya Pradesh, Bhopal.

2. Ravishanker University, Raipur,
Through its Registrar at Post Distt.
Raipur.

3. The Principal Secretary,
Higher Education, Vallabh Bhawan,
Bhopal .

POST FOR ORDER ON 18th June, 2003

Sd/-
L.C. Bhadoo
Judge

17th June, 2003

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Bhopal .

Present:-

Shri Prashant Mishra, Advocate — For the petitioners

Shri Ayaz Naved, Govt. Advocate — For the State of Chhattisgarh / respondent No.3

Before: Hon'ble Shri L.C. Bhadoo, J.

ORDER

(Passed on 18th June, 2003)

1) The petitioners working as Senior Technical Assistants have preferred this writ petition under Article 226/227 of the Constitution of India being aggrieved by non-grant of regular scale of pay Rs.2200-4000/- and consequential re-designation of their posts as Technical Officers with effect from 25th July, 1997.

2) This petition was filed in the year 1999 when the State of Madhya Pradesh was in existence and now on 1st November, 2000, the present State of Chhattisgarh has been carved out of the territory of the State of Madhya Pradesh and the State of Chhattisgarh has stepped in the shoes of State of Madhya Pradesh and the State of Chhattisgarh has been represented by Mr. Ayaz Naved, Govt. Advocate.

3) In Para 5.2 of the petition, the petitioners have mentioned that the petitioners possess the required qualifications for the post of Senior Technical Assistant and they are eligible and qualified for the said post. It has been further mentioned that all the Universities in the State of Madhya Pradesh are established and enacted under the Madhya Pradesh Vishwavidyalaya Adhiniyam, 1973 with identical staffing pattern and salary. The service conditions etc. are also identical and the funding of the salary etc. is being done by the State Government under recommendations of the University Grants Commission in the case of teachers. The post of Senior Technical Assistant has been granted benefit of pay scale of Rs.2200-4000/- by the University Grants Commissions in various Universities right from 1980. Devi Ahilya University, Indore has granted the pay scale vide order dated 5th August, 1997; Rani Durgawati University, Jabalpur has

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granted the pay scale vide order dated 28th May, 1994 and Dr. Hari singh Gour University, Sagar has granted the pay scale vide order dated 17th May, 1995. Rani Durgawati University, Jabalpur has also issued individual orders in favour of Dr. G.C. Budholiya and Dr. Rameshwar Rawat on 6th September, 1985 and in relation to Dr. P.K. Dubey and G.K. Chhatterjee their pay scale was fixed as Rs.2200-4000/- which was approved by Local Fund and Audit Accounts.

4) The Senior Technical Assistants working in Ravishanker University, Raipur were denied regular scale of pay Rs.2200-4000/- and the re-designation for the post as Technical Officers was also denied. The matter was agitated from time to time before the University and ultimately the Administrative Committee of the University in its meeting held on 4th January, 1993 resolved to confer the benefit of pay scale of Rs.2200-4000/- to the post of Senior Technical Assistant and a copy of the Minutes of the Meeting dated 4th January, 1993 is annexed as Annexure P-7. Again a meeting was convened on 18th May, 1993 and the earlier decision was reiterated which is Annexure P-8. In spite of the above decision, the Senior Technical Assistants are being denied the benefit of the pay scale and again vide Meeting of the Executing Council dated 25th July, 1997 a similar decision was again taken as per Para 3(b) of the Agenda. Copy of the Minutes dated 25th July, 1997 is Annexure P-9. The regular pay scale has been granted to the Library Assistant Grade-I, Store Keeper and Technical Assistants in anticipation of the approval from the Co-ordination Committee, but in case of Senior Technical Assistants such method is not being followed and only meetings are held. In spite of that in almost all the Universities of the State of Madhya Pradesh the pay scale of Rs.2200-

4000/- has been granted to the Senior Technical Assistants along with the change of nomenclature and up-gradation of the post as Technical Officers. It is learnt that the decision of the Executive Council of the University dated 25th July, 1997 has been sent to the Co-ordination Committee vide covering letter dated 1st August, 1997, a copy of which is filed as Annexure P-11 along with the extract of the recommendations of the Executive Council with a detailed narration of the injustice meted out to the petitioners. The inaction on the part of the authorities is highly illegal and is liable to be interfered. In spite of decision taken by the University since 4th January, 1993, the petitioners are being denied the pay scale without any lawful justification. The Co-ordination Committee is also behaving in the same manner and is delaying the matter without any justification. The University Authorities are also acting in arbitrary manner by conferring the benefit of higher pay scale in the cases of Library Assistant Grade-I, Store Keeper and Technical Assistants without waiting for the approval of the Co-ordination Committee, but same method is not being adopted in respect of the petitioners. It is therefore, requested that respondents may kindly be directed by writ of mandamus to forthwith decide the question of grant of benefit of the post of Technical Officers and the pay scale of Rs.2200-4000/- (U.G.C. Scale) to the petitioners in terms of the decision of the University Executive Council dated 25th July, 1997.

5) Return has been filed on behalf of respondent No.3 in which it is mentioned that the basic pay scale for the Senior Technical Assistant was Rs.1600-2720/- and through Annexure P-7 the pay scale of Rs.2000-3500/- was given in anticipation of the approval by the Co-ordination Committee.

Vikram University, Ujjain is also giving the pay scale of Rs.1600-2720/- to the post of Senior Technical Assistant. It is further submitted that there are number of anomalies, therefore, the State Government has constituted a Committee of Vice Chancellors to go through the post structures of different Universities and to recommend the unified pay scales so that the anomalies are removed. The Committee has completed its work and submitted the report to the State Government. This report of the Committee has been forwarded to the Finance Department for its approval and Finance Department has forwarded the same to the Co-ordination Committee for its approval. It is further submitted that whatever recommendations will be made by the Committee the same will be accepted and implemented. The petitioners have no case, therefore, the petition be dismissed.

6) Return has also been filed on behalf of respondents 1 and 2 stating therein that the petitioners sought for a relief of pay scale of Rs.2200-4000/- as the post of Senior Technical Assistant has been designated as Technical Officers as a consequential benefit on the basis of the U.G.C. Scheme of the University Service Instrumentation Centre (USIC) formerly known as Central Work Shop. The qualification, pay scales etc. for USIC has been prescribed by the U.G.C. and the selection of the posts are to be made through the process of selection etc. The pay scale and other service conditions applicable to the petitioners are given in Statute No.31, the Senior Technical Assistant is equivalent to Survey Instructor, Cartographer and Superintendent Junior and there is clear position that the rate of pay scale are applicable as announced by the Madhya Pradesh Government from time to time. The petitioners are claiming relief on the,

basis of the decision of the Executive Council which does not create any right in favour of the petitioners because it is beyond the scope of Executive Council. The Executive Council has no authority to create the post and grant the pay scale without prior approval of the State Government. Moreover, the present pay scale of Rs.2000-3500/- has already been granted to the petitioners retrospectively in anticipation of the approval of the Government. The answering respondents have already written a letter to the Additional Chief Secretary (Education), Government of Madhya Pradesh to ascertain the factual position. The pay scale of Rs.2200-4000/- is of Class-II post like Lecturer in the University Teaching Department. The selection of Class-II post like Lecturers is to be done under the provisions of Section 49 of the Madhya Pradesh University Act, 1973. The granting of the pay scales of Rs.2200-4000/- is beyond the jurisdiction of the University as has been provided in appendix of Statute 31. The petition is being misconceived and deserves to be dismissed.

7) I have heard Mr. Prashant Mishra, Advocate on behalf of the petitioners and Mr. Ayaz Naved, Govt. Advocate for the State of Chhattisgarh / respondent No.3 as none appears on behalf of respondents 1 & 2.

8) Mr. Prashant Mishra argued that in spite of the decision of the Executive Council of the respondent University and same being forwarded to the Government on 1st August, 1997, the State Government i.e. Co-ordination Committee is sitting over the decision without any justification and delaying the matter for indefinite period whereas the other Universities viz., Devi Ahilya University, Indore; Rani Durgawati University, Jabalpur

and Dr. Hari Singh Gour University, Sagar, have granted the benefit to similarly situated persons.

9) The respondent University has time and again requested the State Government Co-ordination Committee to give its decision and lastly vide letter dated 01.08.97 a request was made to the Co-ordination Committee for giving its approval. The order dated 15th December, 1999 of the Higher Education Department of the Madhya Pradesh Government has been placed on the record by the respondent in which the Cabinet vide its decision dated 19th August, 1999 has taken a decision that granting the pay scale of Rs.2200-4000/- and the re-designation of the Senior Technical Assistant to Scientific Officer was left to the University with the condition that State Government will not be able to meet the expenses as per the revised pay scales. As per the University Grants Commission report various Universities of the State of Madhya Pradesh as mentioned in Para 5.4 of the petition have already granted the pay scale and have re-designated the post of Senior Technical Assistant as Technical Officer and they have granted the pay scale of Rs.2200-4000/-. The Executive Council of respondent University has also resolved the grant of pay scale, but the Co-ordination Committee has not taken any decision and the matter is pending since 1997. The only objection taken by the respondent is that without the approval of the Co-ordination Committee the University is not entitled to grant the pay scale of Rs.2200-4000/- and also re-designation of the name of post as Technical Officer.

10) Having regard to the facts and circumstances of the case, the fact that the other Universities have already implemented the U.G.C. Scheme by which the various Universities as mentioned in Para 5.4 of the petition have

already granted the pay scale of Rs.2200-4000/- by re-designating the post of Senior Technical Assistant as Technical Officer, the fact that the Executive Council of the respondent University has also taken the decision to grant the same scale of pay and the same was forwarded to Co-ordination Committee of the State Government for its approval as back as on 01.08.1997, since then the Committee has not taken any decision and the decision of the Executive Council was sent on 01.08.1997 to the Co-ordination Committee of Government of Madhya Pradesh and now the Ravishanker University comes under the State of Chhattisgarh, I am of the opinion that some direction should be given to the respondents.

11) In the result, it is ordered that respondent No.2 shall again forward the decision dated 25.07.97 of its Executive Council to the Co-ordination Committee of State of Chhattisgarh within a period of one month and in turn the Co-ordination Committee of State of Chhattisgarh will take its appropriate decision within a period of three months from the date of receipt of the papers from University.

12) The writ petition is disposed of accordingly.

13) Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

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